

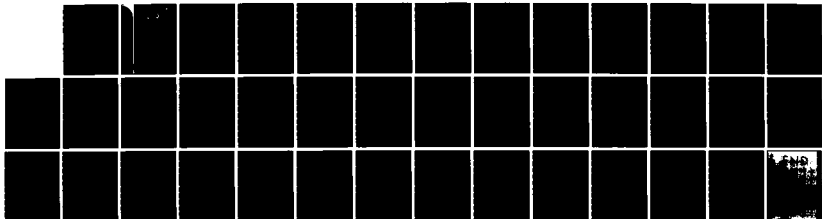
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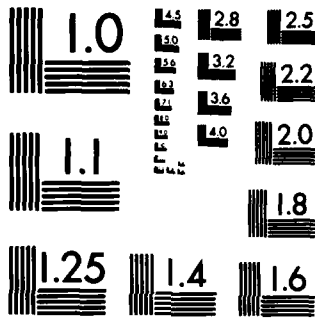
DISPUTES INVOLVING US PRIVATE DIRECT FOREIGN
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DISPUTES INVOLVING US PRIVATE DIRECT FOREIGN
INVESTMENT: MARCH 1, 1980-SEPTEMBER 30, 1982^{1/}

Note: This survey covers 116 foreign investment disputes involving US citizens or companies for the period March 1, 1980, through September 30, 1982. These disputes involve nationalization, expropriation (including host government actions that have an expropriatory effect), forced sale of assets, and forced contract/concession renegotiation.

Summary

The number of new disputes declined markedly. Only five disputes arose between March 1, 1980, and September 30, 1982, compared with 18 new cases between March 1, 1977, and February 29, 1980. The total of 116 old and new disputes covered in this report compares with 136 cases recorded during the previous reporting period.

Only one new dispute involved formal nationalization or expropriation, although disputes arising from this type of host-country action still accounted for more than 80 percent of the reported

1/ This paper updates the following INR research studies: "Disputes Involving US Private Direct Foreign Investment: March 1, 1977-February 29, 1980" (Report No. 1441, August 18, 1980); February 1, 1975-February 28, 1977 (Report No. 855, September 19, 1977); August 1, 1973-January 31, 1975 (INR RS-24U, March 20, 1975); July 1, 1971-July 31, 1973 (RECS-6, February 28, 1974); and "Nationalization, Expropriation, and Other Takings of United States and Certain Foreign Property [1960-1971]" (RECS-14, November 30, 1971).

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Report 555-AR
February 15, 1983

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cases. Latin America again experienced the greatest number of new disputes; more than half of the old disputes involved African countries.

There were no new disputes involving petroleum or other resource extraction industries, although one-third of the old disputes involved this sector. Three of the new disputes involved land or agricultural investments.

Fifteen of the 116 disputes were settled (14 old and one new), leaving 101 unsettled at the end of September 1982. Nine of the settled cases involved African countries. Most settlements followed direct negotiations between the investor and the host-country government, often with US Government assistance. Some settlements resulted from arbitration of the disputes.

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I. Introduction

Investment disputes occur in a variety of forms and under a range of circumstances. In some cases they involve formal expropriation or nationalization of foreign investment. Other cases involve government actions that have an effect equivalent to expropriation, such as unilateral cancellation or forced renegotiation of contracts, forced buyouts or sale of assets, and confiscatory taxation.

The US recognizes the sovereign right of any country to expropriate foreign investment provided that such action: is not discriminatory; is taken for a public purpose; is in accordance with due process; and is not in violation of specific contractual agreements with the investor. Governments that expropriate a foreign investor's property are obligated under international law to provide prompt, adequate, and effective compensation to the investor. Fulfillment of this obligation is also required by US legislation relating to foreign assistance, preferential trade benefits, and US support for loans in multilateral development institutions.

The incidence of new disputes declined markedly over the past five years. The investment disputes report covering the period from March 1, 1977, to February 29, 1980, included 18 new disputes, compared with the 78 new disputes in the previous report. The current report--covering March 1, 1980, through September 30, 1982--includes only five new disputes, the smallest number reported for any comparable period since 1960.

Many countries have chosen to adopt policies other than expropriation in pursuing their efforts to gain greater control over their natural resources and to increase the benefits they derive from their productive process. Such policies include requirements that foreign investors form joint ventures with majority local ownership, restrictions on repatriation of profits, and demands for increased transfers of technology and greater local control of management.

II. Survey Coverage

This report includes five new disputes, updates on 108, and three cases that arose prior to March 1980 but were not covered by earlier reports. Several older cases are omitted because the investor or investors are no longer pursuing their claims. The

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report is not inclusive of all foreign investment disputes that occurred during the reporting period; it is possible that other cases were not brought to the attention of the US Department of State either because the amount of US investment was small or because the parties involved settled the dispute privately.

The decision whether to include individual cases other than those involving formal expropriation or nationalization was based on the degree of host government involvement, the duration of the dispute, and the effect on the investor's financial viability. Inclusion or exclusion of a particular case does not constitute a judgment of its merits by the State Department.

III. Types of Expropriatory Actions

A. Categories of Action

The reported disputes involve claims by US investors of host government actions that, either directly or indirectly, resulted in the loss of US holdings. For analytical purposes, these actions have been categorized as follows:

- Formal expropriation or nationalization: an action by a government to take over the property interests of a US investor, directly or indirectly, and with or without compensation.
- Forced sale of assets: an action or threat of action by a government to induce an investor to sell all or part of its property to a governmental entity or to private citizens of the country sometimes at less than market value.
- Forced contract/concession renegotiation: an action or threat of action by a government to force investors to agree to substantial changes in the terms of a contract or concession agreement, to the perceived detriment of the investor, with or without compensation.
- Intervention: an action by a government to assume control of an investment without ultimate determination of ownership.
- Other: blocked bank accounts, tax disputes, miscellaneous sales disputes, etc.

These are not strict legal definitions; rather, they are meant to provide a convenient framework for the categorization of foreign investment disputes involving US citizens and companies. At the same time, these categories are illustrative of the range of host government actions that give rise to such disputes.

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B. Trends in Type of Expropriatory Action

Cases of formal expropriation or nationalization continue to be the predominant source of investment disputes. (See Table 1, page 4.) While only one of the five new cases falls into this category, 95 of the 111 old cases involved either expropriation or nationalization of foreign investment. Venezuela's nationalization of the oil industry and Ethiopia's nationalizations account for half of this total. The figures in the following tables do not account for Iran's nationalization of various sectors of the economy or for disputes in Nicaragua other than those specified in the case summaries beginning on page 14.

IV. Comparison of Disputes by Region

In the period covered by this report, disputes arose or continued in 42 countries. (See Table 2, page 5.) Africa continued to account for more than half of the old disputes, with a total of 61 cases involving 15 countries. The majority of these cases result from Ethiopia's sweeping nationalization program and Morocco's 1973 expropriation of foreign-owned agricultural land. Africa also had the largest number of settled cases (9), and no new cases arose in the region during the reporting period. Latin America again experienced the largest number of new disputes (4); its share of recorded cases totaled 36, involving eight countries. Only one new dispute was recorded in Asia, and the total number of cases for that region dropped to 14 involving six countries. The small number of recorded cases in the Near and Middle East region does not take into account claims against Iran, Syria, and Turkey.

V. Comparison of Disputes by Sector

There were no new disputes involving the petroleum industry, although this sector continued to account for nearly one-third of the unsettled disputes. (See Table 3, page 6.) Three of the five new cases involved disputes over land or agricultural investments, and this sector accounted for about one-fourth of all recorded cases. There were no new cases in either the mining or the banking/insurance sectors.

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Table 1. DISTRIBUTION OF DISPUTES BY TYPE OF GOVERNMENT ACTION^{1/}

Old Disputes
(Arose prior to March 1, 1980)

<u>Region</u>	<u>Expropriation or Nationalization</u>	<u>Contract Dispute</u>	<u>Forced Sale</u>	<u>Inter- vention</u>	<u>Other</u>	<u>Total</u>
Africa	56	1	3	0	1	61
Asia	9	1	0	0	3	13
Latin America	27	0	1	1	3	32
Near and Middle East	3	0	0	0	0	3
Other	0	0	1	1	0	2
Total	<u>95</u>	<u>2</u>	<u>5</u>	<u>2</u>	<u>7</u>	<u>111</u>

New Disputes
(March 1, 1980-September 30, 1982)

<u>Region</u>	<u>Expropriation or Nationalization</u>	<u>Contract Dispute</u>	<u>Forced Sale</u>	<u>Inter- vention</u>	<u>Other</u>	<u>Total</u>
Africa	0	0	0	0	0	0
Asia	0	1	0	0	0	1
Latin America	1	0	1	0	2	4
Near and Middle East	0	0	0	0	0	0
Other	0	0	0	0	0	0
Total	<u>1</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>2</u>	<u>5</u>
Total New and Old	<u>96</u>	<u>3</u>	<u>6</u>	<u>2</u>	<u>9</u>	<u>116</u>

^{1/} Unless otherwise specified, the tables in this report do not include disputes in the following countries: Cuba, Czechoslovakia, German Democratic Republic, Iran, Nicaragua, Romania, Syria, Turkey, USSR, Vietnam. The omission of these countries from the tables arises either because of uncertainty about the exact number of cases involved or because information on the cases is not publicly available.

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Table 2. GEOGRAPHIC DISTRIBUTION OF DISPUTES

<u>Region</u>	<u>Old Disputes</u>		<u>New Disputes</u>		<u>Total</u>	
	<u>Cases</u>	<u>Countries</u>	<u>Cases</u>	<u>Countries</u>	<u>Cases</u>	<u>Countries</u>
Africa	61	15	0	0	61	15
Asia	13	6	1	1	14	6
Latin America	32	7	4	4	36	8
Near and Middle East ^{1/}	3	5	0	0	3	5
Communist ^{2/}	--	6	0	0	--	6
Other ^{3/}	2	2	0	0	2	2
Total	<u>111</u>	<u>41</u>	<u>5</u>	<u>5</u>	<u>116</u>	<u>42</u>

^{1/} Country total includes Iran, Syria, and Turkey; disputes in these countries are not included in case total.

^{2/} Includes Cuba, Czechoslovakia, German Democratic Republic, Romania, USSR, and Vietnam.

^{3/} Includes Canada and Italy.

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Table 3. SECTORAL DISTRIBUTION OF DISPUTES

Old Disputes
(Arose prior to March 1, 1980)

<u>Region</u>	<u>Petroleum</u>	<u>Mining</u>	<u>Land/ Agriculture</u>	<u>Bank/ Insurance</u>	<u>Other</u>	<u>Total</u>
Africa	12	1	19	4	25	61
Asia	0	2	2	4	5	13
Latin America	22	3	6	0	1	32
Near and Middle East	2	0	0	0	1	3
Other	0	0	0	0	2	2
Total	<u>36</u>	<u>6</u>	<u>27</u>	<u>8</u>	<u>34</u>	<u>111</u>

New Disputes
(March 1, 1980-July 31, 1982)

<u>Region</u>	<u>Petroleum</u>	<u>Mining</u>	<u>Land/ Agriculture</u>	<u>Bank/ Insurance</u>	<u>Other</u>	<u>Total</u>
Africa	0	0	0	0	0	0
Asia	0	0	0	0	1	1
Latin America	0	0	3	0	1	4
Near and Middle East	0	0	0	0	0	0
Other	0	0	0	0	0	0
	<u>0</u>	<u>0</u>	<u>3</u>	<u>0</u>	<u>2</u>	<u>5</u>
Total Old and New	<u>36</u>	<u>6</u>	<u>30</u>	<u>8</u>	<u>36</u>	<u>116</u>

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Table 4. TABULATION OF CASES

Region	Old Disputes			New Disputes			Total	
	Settled	Unsettled		Settled	Unsettled		Settled	Unsettled
		Active	Inactive		Active	Inactive		
Africa	9	47	5	0	0	0	9	52
Asia	2	4	7	0	1	0	2	12
Latin America	2	28	2	1	3	0	3	33
Near and Middle East	0	2	1	0	0	0	0	3
Other	1	1	0	0	0	0	1	1
<hr/>								
<u>Type</u>								
Nat./Exp.	11	77	7	0	1	0	11	85
Forced Sale	1	1	3	1	0	0	2	4
Contract Dispute	0	1	1	0	1	0	0	3
Intervention	0	2	0	0	0	0	0	2
Other	2	1	4	0	2	0	2	7
<hr/>								
<u>Sector</u>								
Petroleum	5	29	2	0	0	0	5	31
Mining	2	3	1	0	0	0	2	4
Land/Agri.	3	19	5	1	2	0	4	26
Bank/Insur.	3	1	4	0	0	0	3	5
Other	1	30	3	0	2	0	1	35

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Table 5. NEW DISPUTES
(Arose between March 1, 1980, and September 30, 1982)

<u>Region/Country</u>	<u>Company/Investor</u>	<u>Status</u>
<u>Asia</u>		
Bangladesh	MOL Enterprises	Unsettled-Active
<u>Latin America</u>		
El Salvador	Las Lajas	Unsettled-Active
Honduras	Construction Aggregates	Unsettled-Active
Nicaragua	Standard Fruit	Settled
Panama	Thomas Moody	Unsettled-Active

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Table 6. SETTLED DISPUTES (March 1, 1980-September 30, 1982)

<u>Region/Country</u>	<u>Company/Investor</u>	<u>Year Initiated-Settled</u>
<u>Africa</u>		
Angola	Banco Inter-Unido (BIU)/ Citibank	1975-1980
Central African Republic	Texaco Mobil	1974-1980 1974-1980
Congo (Brazzaville)	Mobil	1974-1980
Ethiopia	Mille Farms	1976-1981
Kenya	Ngana Ruby Mine	1974-1978
Libya	Atlantic Richfield	1973-1981
Morocco	Frances Pellenc	1973-1982
Tanzania	Caltex	1971-1982
<u>Asia</u>		
India	Hanover Insurance Company New Hampshire Insurance Company	1971-1980 1971-1980
<u>Latin America</u>		
Dominican Republic	Maltes-Torres	1971-1982
Jamaica	Revere Copper and Brass	1974-1980
Nicaragua	Standard Fruit	1980-1981
<u>Other</u>		
Canada	Asbestos Corporation/ General Dynamics	1977-1981
Czechoslovakia	Miscellaneous claims	1960s-1982

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UNSETTLED DISPUTES (unsettled as of September 30, 1982)

<u>Region/Country</u>	<u>Company/Investor</u>	<u>Status</u>	<u>Year Initiated</u>
<u>Africa</u>			
Benin	Jehovah's Witnesses	Inactive	1976
Chad	Agricola du Tchad	Inactive	1975
Ethiopia	33 miscellaneous claims	Active	1975-1978
Ghana	Mobil	Inactive	1975
	Texaco	Inactive	1975
Madagascar	Caltex	Active	1975
	Exxon	Active	1975
Morocco	9 property claims	Active	1973
Mozambique	E. J. Abecassis	Inactive	1977
Nigeria	American International Insurance Company	Inactive	1976
Somalia	Caltex	Active	1970
Zaire	George Maes	Active	1975
	Nicholas Varsamis	Active	1974
Zambia	Caltex	Active	1980
	Mobil	Active	1980
<u>Asia</u>			
Australia	Dillingham Corporation	Active	1976
Bangladesh	Dacca Tobacco/Phillip Morris	Active	1972
	Farrokh Captain	Active	1972
	MOL Enterprises	Active	1980
Burma	Burma Mines	Inactive	1965
	Home Insurance Co.	Inactive	1964

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UNSETTLED DISPUTES (unsettled as of September 30, 1982) (cont'd)

<u>Region/Country</u>	<u>Company/Investor</u>	<u>Status</u>	<u>Year Initiated</u>
<u>Asia (cont'd)</u>			
Burma (cont'd)	International Inspection and Testing Corporation (IITC)	Inactive	1964
	Motion Picture Association of America	Inactive	1964
India	Great American Insurance Company	Active	1971
Indonesia	A. F. W. Hoets	Inactive	1972
	Sea Oil and General	Active	1958, 1960
Pakistan	United Presbyterian Church	Active	1972
<u>Latin America</u>			
Bolivia	Applegate-Younquist	Inactive	1960
El Salvador	Las Lajas	Active	1980
Honduras	Construction Aggregates Corporation	Active	1980
	El Pino/Lesley Frey	Inactive	1974
Jamaica	Rose Hall, Ltd.	Active	1978
	Trade Winds Group	Active	1978
Nicaragua	Neptune Mining (ASARCO)	Active	1979
	Rosario Mining	Active	1979
	Miscellaneous claims	Active	1979-1982
Panama	Boston Panama	Active	1969
	Citricos de Chiriqui	Active	1974
	Thomas Moody	Active	1981
Venezuela	Oil companies (22)	Active	1976

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UNSETTLED DISPUTES (unsettled as of September 30, 1982) (cont'd)

<u>Region/Country</u>	<u>Company/Investor</u>	<u>Status</u>	<u>Year Initiated</u>
<u>Near and Middle East</u>			
Afghanistan	Indomer Afghan Industries	Inactive	1978
Iran	Miscellaneous claims	Active	1979
Lebanon	Mobil	Active	1973
	Exxon	Active	1973
Syria	Miscellaneous claims	Inactive	1960s-1970s
Turkey	Miscellaneous claims	Active	1974
<u>Other</u>			
Italy	Raytheon/ELSI	Active	1968
<u>Communist</u>			
Cuba	Miscellaneous claims	Inactive	--
German Democratic Republic	Miscellaneous claims	Active	--
Romania	Miscellaneous claims	Inactive	1973
USSR	Miscellaneous claims	Inactive	--
Vietnam	Miscellaneous claims	Inactive	--

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SYNOPSIS OF DISPUTES BY COUNTRY

The following pages contain synopses of 116 foreign investment disputes involving US citizens or companies, arranged alphabetically by country, which were unsettled as of March 1, 1980, or which arose during the period from March 1, 1980, through September 30, 1982.

The settled classification indicates that a final agreement between the investor and the host government has been reached and, in most cases, that the payment of compensation has begun, or that the investor has lost a definitive judicial or arbitral decision with respect to the merits of the claim.

The unsettled-active classification indicates that the dispute has not been resolved, but some discussion is continuing between the investor and the host government or one of the parties is pursuing the claim actively. In some cases, this classification indicates that legal proceedings with respect to the claim are still under way.

The unsettled-inactive classification denotes a case in which little or no activity occurred between March 1980 and September 1982, usually because the investors chose not to pursue their claims actively.

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AFGHANISTAN

UNSETTLED-INACTIVE

Indamer Afghan Industries

Assets belonging to Indamer Afghan Industries, a US-owned company, were taken over by the Afghan military following the government's June 1978 order that the company cease operations in Afghanistan because of alleged trading and tax violations. Company representatives have discussed the matter with representatives of the Government of Afghanistan, and the US Government has made numerous representations on behalf of the company. However, given the current situation in Afghanistan, prospects for a settlement in the near future are not promising.

ANGOLA

SETTLED

Banco Inter-Unido (BIU)/Citibank

The Banco Inter-Unido, 50 percent owned by Citibank, was among the Angolan banks affected by 1975 Portuguese bank nationalizations. An August 14, 1975, decree transferred control of BIU to the Angolan Government, indicating that the nationalization was a temporary measure. In late 1980, the Angolans provided Citibank with full reimbursement for its equity in BIU.

UNSETTLED-INACTIVE

Da Costa Family

Larry V. Da Costa, a US citizen, in 1977 wrote to the Department of State to ask for assistance in obtaining compensation for property and business assets in Angola which he had inherited from his father and which he understood had been confiscated by the Angolan Government. Because the US has no diplomatic relations with Angola, it has not been practicable to raise the Da Costa claim with the Angolan Government. The State Department advised Da Costa to contact the Angolans directly, through their representatives at the United Nations. Da Costa has not been back in touch with the State Department.

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AUSTRALIA

UNSETTLED-ACTIVE

Dillingham Corporation

In 1976 the Government of Australia revoked the export permit of a sand mining operation owned by a subsidiary of Dillingham Corporation, a US company. The effect of the action was to close down the operation, as there was no local demand for the mine's output. The government stated that the action was taken to protect Fraser Island, the site of the mine, from environmental damage. Although the government has denied liability for losses sustained by Dillingham as a result of the termination, in September 1977 it offered the company an ex gratia payment. In March 1979, the company rejected the offer as inadequate.

The US Government has made a number of high-level representations to the Australian Government on the company's behalf. Recently, Dillingham asked the Government of Australia to reinstate its original offer plus "reasonable interest," but it has yet to respond formally to the company's request.

BANGLADESH

UNSETTLED-ACTIVE

Farrokh Captain

In 1972 two properties of Farrokh Chemical Industries, Ltd., owned by Farrokh Captain, a US citizen, were taken over by the Government of Bangladesh. Captain's claim for compensation initially was rejected by the government because of questions concerning his citizenship and ownership. Although the citizenship issue has been resolved, the government continues to dispute Captain's claims of ownership of the properties. Captain's attorneys have provided documentation supporting his claim to ownership of Farrokh Chemical Industries and are awaiting a further determination from the government.

MOL Enterprises

In 1977 MOL Enterprises entered into a contract with the Bangladesh Government for the export and breeding of Rhesus monkeys. These monkeys are used by the National Institutes of Health and other medical research institutions. In January 1979, the government terminated its contract with MOL because of alleged contract violations. Soon afterward a ban was placed on the export of Rhesus monkeys from Bangladesh. The US Embassy in Dacca has assisted

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MOL's US owners in presenting their case to the government, and negotiations between the two parties are continuing. The negotiations have been complicated by the intervention of US Wildlife Protection groups which oppose the use of monkeys for research.

Dacca Tobacco Industries/
Phillip Morris

In 1972 the Government of Bangladesh took over Dacca Tobacco Industries under the Abandoned Enemy Property Act. Dacca Tobacco was wholly owned by Premier Tobacco Industries of Karachi, in which Phillip Morris has a 30-percent interest. In 1976 Phillip Morris filed a claim for compensation, which was denied by Bangladesh on the grounds that Dacca Tobacco was legally a Pakistani firm. Phillip Morris, Dacca Tobacco, and Premier Tobacco all filed for ownership of the K-2 cigarette trademark used by Dacca. In April 1982, Dacca's trademark application was denied. A decision has not yet been reached as to whether Phillip Morris and/or Premier will be allowed to register the K-2 trademark.

BENIN

UNSETTLED-INACTIVE

Jehovah's Witnesses (Watchtower
Society)

In April 1976, the Government of Benin banned the Jehovah's Witnesses from Benin and confiscated their property, valued at about \$140,000. At the time of the confiscation, the government recognized its obligation to pay compensation to the Jehovah's Witnesses. Negotiations between the two parties began in July 1979. The State Department has received no reports from the Jehovah's Witnesses on the status of the negotiations and is unaware of any settlement of the dispute.

BOLIVIA

UNSETTLED-INACTIVE

Applegate-Younquist

In the early 1960s, land holdings belonging to two US citizens were nationalized under the Bolivian Government's land reform program. Negotiations for a settlement have been conducted periodically with various Bolivian Governments. In 1977 Bolivia offered the investors a choice of one of four specific parcels of land in compensation for the holdings. In 1980 it was reported that the investors were amenable to a settlement in the form of

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land. Neither US party in the case has been in contact with the Department of State since that time.

BURMA

UNSETTLED-INACTIVE

Home Insurance Company

In 1964 the Government of Burma nationalized all insurance companies operating in the country and blocked their local-currency bank accounts. Among the companies affected was Home Insurance Company of New York. With the assistance of the US Embassy in Rangoon, Home Insurance in November 1980 filed the required claim form for release of its blocked local-currency account, currently valued at about \$29,000. At the same time, the company requested that its claim for the "going concern value" of its operations be brought before the Burmese Compensation Committee, established in 1973, for consideration.

Motion Picture Association of
America (MPAA)

MPAA's local-currency bank accounts were also blocked by the Government of Burma in 1964. The company has been informed that the funds in the blocked accounts are available for use within Burma, but may not be remitted because the company has already remitted the maximum allowable under Burmese foreign-exchange regulations.

Burma Mines, Ltd.
International Inspection and
Testing Corporation (IITC)

Both Burma Mines and IITC continue to press their claims against the Government of Burma; but neither case has yet, to the State Department's knowledge, been taken up by the Burmese Compensation Committee.

CANADA

SETTLED

Asbestos Corporation/General
Dynamics

In 1977 the Province of Quebec announced its intention to acquire General Dynamics Canada's 55-percent interest in the Asbestos Corporation. General Dynamics Canada, Ltd., is a wholly owned

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subsidiary of the General Dynamics Corporation of St. Louis. Initial acquisition negotiations were unsuccessful, and in June 1979 the Quebec National Assembly authorized the provincial government to expropriate Asbestos Corporation. General Dynamics sought, and was granted, an interlocutory injunction by Quebec's superior court.

In November 1981, following refusal by the Canadian Supreme Court to block the provincial government's expropriation plans, General Dynamics and the Government of Quebec reached an acquisition agreement. Under the terms of the agreement, the provincial government will initially pay about \$13.3 million for a 51-percent interest in General Dynamics Canada. In addition, the agreement gives the provincial government the option to purchase General Dynamics' 1.6 million shares in the Asbestos Corporation after three years.

CENTRAL AFRICAN REPUBLIC

SETTLED

Texaco
Mobil

In September 1980, Mobil and Texaco oil companies settled their claims against the Government of the Central African Republic. The claims stemmed from the government's 1974 nationalization of distribution facilities owned by the two companies. The settlement was part of a larger agreement whereby Mobil and Texaco became stockholders in a joint venture involving the government and two other oil companies. Texaco and Mobil are being indemnified by levying against their accounts a surcharge of five CFA (African Financial Community) francs on every liter of imported oil.

CHAD

UNSETTLED-INACTIVE

Agricola du Tchad-Agricola Metals
Corporation

In 1975 the Government of Chad abrogated Agricola's monopoly right to collect wild gum in Chad, on the grounds that the company had failed to meet its contractual obligations. Agricola denied the allegation, but was unable to reach a settlement with the government. As a result, the company closed its office in Chad and filed an expropriation claim with the Overseas Private Investment Corporation (OPIC). OPIC settled with the company in 1979. Negotiations between OPIC and the Government of Chad have

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been at a standstill since 1980, but OPIC plans to reopen the case when the political situation in Chad stabilizes.

CONGO (BRAZZAVILLE)

SETTLED

Mobil

In January 1974, the Government of the Congo nationalized the terminals and marketing facilities of foreign-owned oil companies. Among the companies affected was Mobil. Negotiations between Mobil and the government began in 1977 and culminated in an agreement which was signed in November 1981. Under the terms of the agreement, Mobil will receive repayment of about \$1.4 million over a five-year period.

CUBA

UNSETTLED-INACTIVE

Between 1964 and 1968, private US claims against Cuba totaling almost \$2 billion were presented to the US Foreign Claims Settlement Commission for adjudication. To date, there have been no formal discussions with the Government of Cuba on the issue of unsettled claims.

CZECHOSLOVAKIA

SETTLED

In January 1982, the US Government and the Government of Czechoslovakia signed an agreement on the settlement of outstanding expropriation claims. The agreement, which applies to claims adjudicated by the US Foreign Claims Settlement Commission, provides for the payment of \$81.5 million for claims resulting from expropriation that took place prior to 1958 and \$1.5 million for post-1958 claims.

DOMINICAN REPUBLIC

SETTLED

Maltes-Torres

In May 1971, the Government of the Dominican Republic expropriated land belonging to Jose Maltes-Torres, a US citizen, in connection

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with the construction of the Puerto Plata Airport. At the time the land was expropriated, its total value was placed at \$250,000. Maltes-Torres received an initial payment of \$50,000 from the government soon after the expropriation. In July 1982, following frequent US representations on Maltes-Torres' behalf, the Dominican Republic provided him with a check for the remaining \$200,000. Maltes-Torres has accepted the payment.

EL SALVADOR

UNSETTLED-ACTIVE

Las Lajas

The Las Lajas farm, owned by the Langenegger family, was expropriated by the Government of El Salvador under the Agrarian Reform Decree of March 6, 1980. At the time of the expropriation, the government apparently was not aware that the property was owned by US citizens, because the estate was registered in the name of Blanca Rosa Langenegger, a Salvadoran citizen now deceased. Langenegger's heirs, who are US citizens, now claim the estate and are seeking compensation from the government. The Land Reform Decree provides for payment in the form of Agrarian Reform Bonds, the value of the property to be determined on the basis of 1976 and 1977 tax declarations.

In February 1981, the Langeneggers filed suit against the US Government in the US Court of Claims, seeking recovery for the asserted value of the estate. They claim that the US bears responsibility for the expropriation because of US support for the El Salvador Government's agrarian reform initiatives. The suit is still pending.

ETHIOPIA

UNSETTLED-ACTIVE

Between 1975 and 1978, the Ethiopian Government nationalized property belonging to more than 225 foreign firms and individuals including 34 firms owned by US citizens. The Ethiopians stated that compensation would be provided, but no meaningful progress toward resolution of the US claims had taken place by 1979. As a result, the US suspended bilateral economic assistance to Ethiopia and has voted against loans to Ethiopia in multilateral development banks. Ethiopia has also been removed from the list of countries which benefit from the Generalized System of Preferences.

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In late 1980, the Ethiopian Compensation Commission began negotiations with nationalized firms. To date, settlements have been reached with five firms, including the US-owned Mille Farms.

GERMAN DEMOCRATIC REPUBLIC

UNSETTLED-ACTIVE

In January 1982, following seven rounds of informal discussions, the US Government and the East German Government began formal negotiations on private US expropriation claims.

GHANA

UNSETTLED-INACTIVE

Mobil
Texaco

Mobil and Texaco were among the foreign investors required by Ghana to sell a portion of their shares under Article 37 of a 1975 Investment Policy Decree. Payment for the shares was made in local currency. Because of Ghana's foreign-exchange shortage, the companies were prohibited from repatriating the proceeds in dollars. Following assurances that repatriation would be possible at some future date, each company was allowed to remit a small portion of its share sale proceeds in May 1980.

HONDURAS

UNSETTLED-ACTIVE

Construction Aggregates Corporation
(CAC)

In March 1980, after a series of disputes with the Honduran national port authority (Empresa Nacional Portuaria) and its consulting engineer, CAC suspended work and brought an arbitral proceeding against Empresa. In November 1981, an arbitral tribunal entered an award holding that the port authority had breached its contract with CAC and that CAC was entitled to suspend work and to be paid damages, other compensation, and interest in specified amounts. The tribunal also held that CAC was entitled to be paid for all work that had been performed and approved. Empresa has not yet paid the arbitral award; and CAC has filed a claim for compensation under its OPIC insurance.

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policy, which provides that OPIC will compensate the insured for nonpayment of an arbitral award lasting at least six months.

UNSETTLED-INACTIVE

El Pino/Lesley Frey

Under the terms of Honduran Decree 103 of 1974, which required that all lumber concerns have majority local ownership, US citizen Lesley Frey was forced to sell 51 percent of his sawmill and lumber export business, El Pino, to local investors. Frey maintains that the price he received for sale of El Pino was inadequate and has brought a claim against the Government of Honduras. The US Government has advised Frey to pursue his claim in the Honduran courts.

INDIA

Great American Insurance Company-
American Foreign Insurance
Association

Hanover Insurance Company,
New Hampshire Insurance Company-
American International Group (AIG)

Great American Insurance Company, Hanover Insurance Company, and New Hampshire Insurance Company were among the foreign insurance firms nationalized by the Indian Government in 1971. The companies were paid compensation according to a formula that did not take into account loss of future profits. The two AIG companies subsequently were able to negotiate an agreement for the payment of further compensation. The Great American Insurance Company also sought additional compensation; the State Department is not aware of the status of the company's negotiations with the Indian Government.

INDONESIA

UNSETTLED-ACTIVE

A. F. W. Hoets

Hoets, a US citizen, claims ownership of several properties in Bandung, Indonesia. He bases his claim on 1956 and 1957 conveyances from his grandfather, a Dutch citizen now deceased. The US Embassy in Jakarta has made numerous representations to the Indonesian Government on Hoets' behalf. The Indonesians are

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currently studying the case to determine whether or not Hoets has legal rights to the property. The State Department has urged Hoets to pursue his claim through the Indonesian courts.

Sea Oil and General/P. T. Baud

Five rubber and tea plantations belonging to P. T. Baud, a wholly owned subsidiary of Sea Oil and General, were expropriated by the Indonesian Government in accordance with laws enacted in 1958 and 1960. Sea Oil subsequently submitted a claim for compensation. In 1975 the Indonesians offered Sea Oil a \$450,000 settlement. The company rejected the offer as inadequate. In February 1982, following several years of unsuccessful negotiations and numerous interventions by the US Government on Sea Oil's behalf, the Government of Indonesia agreed to submit the case, including the question of ownership, to binding arbitration under a UN dispute-settlement body, the United Nations Commission on International Trade Law.

In September, Sea Oil countered with an offer of arbitration under a World Bank dispute-settlement body, the International Center for the Settlement of Investment Disputes. The US Government is urging the parties to agree to arbitration in one or the other body.

IRAN

The 1981 Algiers accords, which resulted in the release of the US hostages held by Iran, called for a mechanism for settlement of private and commercial claims against Iran. The Iran-United States Claims Tribunal was established in The Hague to arbitrate, inter alia, claims of US citizens against Iran and of Iranian citizens against the US. A security account was established at a subsidiary of the Dutch Central Bank for the sole purpose of paying awards in favor of US claimants against Iran. The account was funded at an initial level of \$1 billion from certain transferred Iranian assets, and Iran is to replenish the account whenever the balance falls below \$500 million. Claims of \$250,000 or more are presented directly to the Tribunal by the claimant, while the US Government is responsible for presenting all US private claims of less than \$250,000. Some 2,795 small claims and approximately 650 large claims were filed prior to the January 19, 1982, deadline.

To date, the Tribunal has issued eight awards in private US claims against Iran. Six of these involved settlements reached directly by the parties concerned. The first US claimant to have its settlement paid from the Security Account was B. F. Goodrich, which concluded an agreement with the Iranian Government in April 1982. Since then, an additional five settlements have been paid and others are pending. In addition, the Tribunal has awarded

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compensation to White Westinghouse for the loss of its assets plus back interest. One claim has been dismissed by the Tribunal on the grounds that the claimant is not a US citizen.

ITALY

UNSETTLED-ACTIVE

Raytheon-ELSI

In 1968 Raytheon decided to liquidate ELSI, an Italian company it had owned since the mid-1950s. The decision was based on the company's poor profitability. Upon learning of the proposed liquidation, the Government of Italy seized the assets of the company, forcing it into bankruptcy. ELSI's assets were later sold to an Italian state company. Raytheon contested the legality of the government's seizure of ELSI's assets in the Italian courts, which ruled that the government's action had been illegal. Based on this judgment, the US Government espoused Raytheon's \$7 million claim and presented it to the Italian Government in 1974.

Periodic diplomatic efforts to settle the claim have been unsuccessful. In January 1981, the US proposed to the Italians that an arbitral tribunal be convened, as provided for by a 1931 bilateral Treaty of Arbitration. Recently there have been some indications that the US and Italy may soon begin formal discussions on the establishment of a mutually acceptable mechanism for the settlement of this longstanding dispute.

JAMAICA

SETTLED

Revere Copper and Brass

In 1974 the Government of Jamaica raised substantially the tax levy imposed on bauxite operations in Jamaica. Following an unsuccessful attempt to gain relief from the increase, Revere terminated its operations in Jamaica and filed an expropriation claim with OPIC. An arbitral panel found that the government had taken "expropriatory action" as defined by OPIC insurance coverage; it awarded Revere an amount equal to the value of its assets plus interest and costs. Revere refused to accept the award on the grounds that its assets were worth substantially more than the amount determined by the panel. After unsuccessfully contesting the amount in US Federal Courts, Revere accepted the award in satisfaction of its claim against OPIC.

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UNSETTLED-ACTIVE

Trade Winds Group

In 1978 Trade Winds Group entered into an agreement with the Government of Jamaica for the sale of a land development project. Payment was to be made in cash and land bonds. Subsequent to the initial agreement, the transaction was temporarily suspended by the government while it reviewed Trade Winds' tax liabilities. During the suspension, the value of the land bonds declined substantially as a result of a devaluation of the Jamaican currency.

Trade Winds has sought US Government assistance in gaining compensation for its losses. The US has, on several occasions, made representations to Jamaica on behalf of Trade Winds. Through its attorney in Jamaica, Trade Winds has been pursuing the issue of timely payments of interest on the land bonds with the Jamaican Government. Trade Winds has not been in contact with the State Department with reference to this case since December 1981.

Rose Hall, Ltd.

In 1978 Rose Hall, Ltd., brought suit against Chase Merchant's Bank for alleged unlawful sale of a hotel and land to the Jamaican Urban Development Corporation. The properties had been held by the bank as collateral for a loan to Rose Hall. When the company defaulted on the loan, the bank foreclosed and sold the properties. Rose Hall claims that the Urban Development Corporation purchased the properties for far below market value and took possession of land that was not part of the loan collateral. The case is still being contested in both US and Jamaican courts.

KENYA

SETTLED

Ngana Ruby Mine

In February 1978, the Government of Kenya and US geologist John Saul reached a settlement of their longstanding investment dispute, which stemmed from the government's divestiture of Saul's claim to a ruby mine in southern Kenya. Intermittent negotiations between the two parties had been under way since 1974. Saul received a partial cash payment and will be reimbursed for the remainder of his claim out of future profits of a joint venture set up to exploit the mine.

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LEBANON

UNSETTLED-ACTIVE

Iraq Petroleum Company (IPC)/
Mobil-Exxon

In mid-1973, the Government of Lebanon seized the IPC refinery in Tripoli. The action was taken to prevent the takeover of the facility by the Government of Iraq, which had nationalized IPC's assets in Iraq in June 1972. The Iraqis reached a compensation agreement with IPC shareholders in February 1973. Mobil and Exxon held 23.7-percent ownership of IPC; other shareholders were British Petroleum, Shell, PARTEX, and Compagnie Francaise des Petroles. IPC shareholders received no compensation from the Government of Lebanon and have contested their claims in British courts.

LIBYA

SETTLED

Libyan-American Oil Company/
Atlantic Richfield (ARCO)

In February 1973, the Libyan Government nationalized the Libyan-American Oil Company, an ARCO subsidiary. An April 1973 international arbitration decision awarded ARCO \$80 million in compensation. When the government refused to recognize the validity of the award, ARCO moved to attach Libyan assets in France, Switzerland, Sweden, and the US. In early 1981 the two parties reached a mutually acceptable settlement. As a result, ARCO has dropped all of its legal actions against the Libyan Government.

MADAGASCAR

UNSETTLED-ACTIVE

Caltex
Exxon

In June 1975, the Government of Madagascar issued Ordinance 76-020, which nationalized the petroleum industry and created a state petroleum monopoly. The local distribution facilities of Caltex and Exxon, as well as their minority interests in a local refining operation, were affected by the nationalization. Caltex and Exxon subsequently submitted respective claims of \$12 million and

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\$25 million. In 1977 the government confirmed that the companies had a right to compensation and expressed a willingness to negotiate. To date, however, efforts by both Caltex and Exxon to enter into negotiations with the government have been unsuccessful.

The US Government has made a number of representations to the Madagascar Government on behalf of the two companies. Both Caltex and Exxon met recently with representatives of Madagascar and hope to begin formal negotiations in the near future.

MOROCCO

UNSETTLED-ACTIVE

Land Expropriations

By Royal Decree 1-73-213 of March 1973, the Moroccan Government expropriated all agricultural land owned by non-Moroccans. A total of 140 acres of land belonging to 10 US companies or individuals was expropriated in accordance with the decree. In April 1982 the Moroccan Government reached a settlement with Frances Pellenc, whose claim for the loss of 52 acres was the largest single US claim. The US Embassy in Rabat continues to make representations on behalf of the remaining US claimants. The State Department is not aware of any further settlements.

MOZAMBIQUE

UNSETTLED-INACTIVE

E. J. Abecassis

In August 1977, the Government of Mozambique nationalized several foreign-owned pharmaceutical firms and created a state pharmaceutical company. Among the firms affected was E. J. Abecassis of Mozambique, a subsidiary of E. J. Abecassis of New York. The firms were nationalized under a provision of Mozambique law that allows confiscation of property abandoned by absentee owners; the law does not require compensation. Abecassis maintains that it did not abandon its subsidiary and is claiming compensation.

Discussions between Abecassis representatives and Mozambique officials on how to resolve the dispute have thus far been unsuccessful. The company has not been in contact with the Government of Mozambique since 1980.

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NICARAGUA

SETTLED

Standard Fruit

In January 1981, Standard Fruit and the Government of Nicaragua reached an agreement providing for the purchase of Standard Fruit's banana marketing and production facilities by the newly formed state banana company. The agreement followed an announcement by Nicaragua that it was nationalizing the banana industry. Under the agreement's terms, Standard Fruit will continue as the major buyer of Nicaragua's banana crop and will provide technical assistance to the state banana company.

UNSETTLED-ACTIVE

Property Cases

Properties belonging to US citizens or companies have been expropriated, confiscated, or otherwise intervened by the Nicaraguan Government since July 1979. The issue of compensation has been raised in high-level consultations, and it appears that the Nicaraguans are interested in resolving the claims. The US Government is working toward a timetable for submission of all private US claims to the Nicaraguan Government.

Neptune Mining Company/ASARCO
Rosario Mining Company

In November 1979, the Government of Nicaragua issued a decree nationalizing the mining industry and canceling all mineral exploration and exploitation rights granted by the previous government. ASARCO and Rosario, both of which were affected by the decree, have been discussing their compensation claims with the government. The three parties are currently negotiating procedures for submission of the claims to arbitration.

NIGERIA

UNSETTLED-ACTIVE

American International Insurance
Company (AIIC)-American
International Group

In 1976 the American International Insurance Company was required by decree to sell 49 percent of its stock to the Nigerian Federal

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Government (FGN) at a price AIIC regarded as far below fair market value. When it accepted payment for the stock, the company presented the government with a letter reserving the company's position on possible litigation to obtain adequate compensation. Later, AIIC sold a further 11 percent of the company's shares to the FGN on behalf of the states. Owing to delays in state payments to the FGN, AIIC has not yet received full compensation for this sale. Both transactions remain under discussion.

PAKISTAN

UNSETTLED-ACTIVE

United Presbyterian Church

In 1972 the Government of Pakistan nationalized the Forman Christian College in Lahore. The United Presbyterian Church, which ran the college, maintains that the nationalization law was not meant to apply to the land and buildings of the college, some of which the church would like now to sell. Discussions between church representatives and the government on how to resolve the dispute have thus far been unsuccessful. In May 1982, the government took action to use one of the buildings on the disputed property. A Pakistani court had ordered the building in question sealed, along with several others, in 1979 pending resolution of the dispute. United Presbyterian Church lawyers were able to obtain a stay order to block the attempt to open the building. The church is continuing its efforts to reach an amicable settlement with the government.

PANAMA

UNSETTLED-ACTIVE

Boston Panama Company

In 1956 the Boston Panama Company, whose principal asset was a 50,000-acre tract of undeveloped land in Panama, was purchased by two US citizens. At the time, there was an outstanding tax liability of \$1.8 million against the land. The purchasers were aware of the liability, but had received assurances that the tax claim could be resolved. The liability was later reduced to about \$260,000, but the company refused to pay that amount. In 1969 the outstanding liens were executed through public auction of the property. In the absence of any private bids covering the claimed liability, the Government of Panama took title to the land. Negotiations between the company and the government have thus far

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failed to produce a settlement, although both sides remain hopeful that the dispute will be resolved soon.

Citricos de Chiriqui

Between 1961 and 1974, Citricos invested a substantial amount in a citrus growing and processing operation in western Panama. In September 1974 the company announced that it intended to terminate the operation because it had proved unprofitable. Soon afterward, the Government of Panama assumed management of the property, citing the need to maintain employment and to eliminate the health hazard resulting from the rotting fruit on Citricos' untended plantation. Panama has since taken the position that it is prepared either to reach an equitable financial settlement with Citricos or to have the company resume control of the operation. However, the two parties have thus far been unable to reach a mutually acceptable settlement. The US Government has made a number of high-level representations on behalf of Citricos in an effort to resolve the dispute.

Thomas Moody Property Claim

In June 1981, US citizen Thomas Moody was attacked, reportedly by a group of Indians, at his resort hotel on the San Blas Islands. Following the attack, the Government of Panama revoked Moody's license to operate the hotel and announced publicly that he would receive compensation. Despite Moody's continuing efforts and US diplomatic representations on his behalf, the Government of Panama has not yet provided him with the promised compensation.

ROMANIA

UNSETTLED-ACTIVE

In 1974 the Romanian Government issued a decree (No. 233) that placed a limit on the amount of compensation that emigrants, including US citizens, could receive for property taken by the state. The decree precipitated claims against Romania by US citizens. In early 1980, decree 223 was amended to increase the maximum amount of compensation allowable. Subsequent to this change, the US Embassy in Bucharest was able to provide informal assistance to two US citizens who were successful in settling their claims. The Romanian Government has promised that the processing of outstanding cases will continue, but no additional settlements have been reported.

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SOMALIA

UNSETTLED-ACTIVE

Caltex

In May 1970, distribution facilities belonging to Caltex were nationalized by the Government of Somalia, and the company's bank account was blocked. Caltex is continuing its efforts to negotiate a resolution of the dispute.

SYRIA

UNSETTLED-INACTIVE

In 1979 the US and Syria held formal negotiations in Damascus on private and official US expropriation claims dating back to the mid-1960s and early 1970s. The two governments failed to reach any settlement, and no further negotiations have taken place.

TANZANIA

SETTLED

Caltex

In 1971 a filling station and other property belonging to Caltex were expropriated by the Government of Tanzania. In early 1982, Caltex received compensation for the loss of some of its properties.

TURKEY/CYPRUS

UNSETTLED-ACTIVE

The US Embassy in Ankara continues to be actively involved in negotiations with Turkish officials on behalf of US claimants whose property in northern Cyprus was damaged and/or occupied during the 1974 hostilities. A number of claims have already been resolved, while new, previously unreported claims continue to be brought to US attention.

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USSR

UNSETTLED-INACTIVE

Private US claims for property taken by various Soviet regimes are still pending. The US continues to maintain that the USSR is liable for these claims and intends to espouse them at a time when it appears that negotiations might be successful.

VENEZUELA

UNSETTLED-ACTIVE

Oil Companies

In September 1975, the Government of Venezuela nationalized the oil industry. The action affected 22 US oil companies. A compensation agreement was reached in 1976 and about half of the package agreed upon was paid. The remainder was placed in a guarantee fund pending the resolution of a complex series of tax claims against the companies. Discussions between the Venezuelan Government and the individual US oil companies are under way. The US Government has made several high-level representations on behalf of the companies.

Occidental Petroleum

Occidental was excluded from the 1976 compensation agreement pending resolution of bribery charges which had been leveled against the company by the Venezuelan Government. The Venezuelan courts subsequently dismissed the government case against Occidental and ruled that the company was, in fact, entitled to compensation. Discussions are under way between the Venezuelan Government and Occidental as to the amount of compensation due the company.

VIETNAM

UNSETTLED-INACTIVE

In May 1980, the US Congress amended the International Claims Settlement Act to allow private US claimants against Vietnam to register their claims with the US Foreign Claims Settlement Commission. A congressional report estimated that there are approximately 1,000 private US claims against Vietnam with a total value of about \$110 million.

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ZAIRE

UNSETTLED-ACTIVE

George Maes Property Case

In 1975 the Government of Zaire expropriated property that George Maes, a US citizen, had inherited from his parents prior to Zaire's independence. At Maes' request, the US Embassy in Kinshasa asked the government to make a determination on Maes' eligibility for compensation. The Embassy was informed that Maes was, in principle, eligible for compensation for buildings on the property at the time it was expropriated, but not for the land itself because it belonged to the state. The US Government has advised Maes to file a formal claim with the Government of Zaire for the value of the lost buildings.

Varsamis Property Case

In 1974 Zaire expropriated a coffee plantation belonging to US citizen Nicolas Varsamis and sold it to a Zairois citizen. The US Embassy has been in contact with the Zairian Government on this issue. The government has indicated that Zaire is pressing the new owner for payment to the government. Varsamis is also challenging the valuation of his property as stated by the government.

ZAMBIA

UNSETTLED-ACTIVE

Caltex
Mobil

Effective January 1980, the Government of Zambia nationalized petroleum stocks belonging to the six petroleum companies of the Ndola Oil Storage Company (NOSCO) and proposed government purchase of NOSCO's storage facilities. The NOSCO Consortium includes two US companies, Caltex and Mobil, and the Total, Agip, Shell, and British Petroleum companies. All stock was taken over by Zambian National Energy, Limited, the government-owned oil company in Zambia. The Government of Zambia's official explanation of the de facto nationalization is its desire to monitor Zambian oil consumption patterns more closely and to control strategic storage facilities. Meetings between the consortium companies and the government have overcome a number of disputed questions of valuation. Significant issues are outstanding, however.

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